

Frankfort Architectural Review Appeals Board

January 25, 2007

Members Present: Charles Booe
Patti Cross
David Garnett
Sherron Jackson (4)

Members Absent: None (0)

There being a quorum, the meeting proceeded. David Garnett chaired the meeting.

Members of the staff present were Rob Moore, City Solicitor; Gary Muller, Planning Director; Justin Evilsizor, Staff Planner; and Dianna Rogers, Recording Secretary.

Mr. Garnett stated the Board meeting was called, in accordance with Article 17.09 of the City of Frankfort Zoning Code, for Mr. Edward Wimer requesting an appeal that the Architectural Review Appeals Board (ARAB) overturn the decision of the Architectural Review Board (ARB) rendered on November 21, 2006 regarding a Certificate of Appropriateness to replace the existing half round guttering system with modern seamless guttering for 5 Lyons Court.

Mr. Garnett stated the ARB considered Mr. Wimer's request on November 21, 2006 and denied the application. Mr. Garnett added the final order was issued December 1, 2006 and Mr. Wimer filed his appeal on December 20, 2006. Mr. Garnett stated the Board has two options in handling this request. He stated they could table for preparation of a summary and have sixty (60) days for a decision or they can make a decision tonight. Mr. Garnett stated they the Board was here tonight to see if the ARB's decision was supported by substantial evidence. He added they could not receive new evidence tonight.

Mr. Edward L. Wimer, 5 Lyons Court, was present and stated the guttering is falling down because of the rain and the half round guttering was too far away from the fascia board and it was leaking. He stated the new guttering would take care of the problem and would be maintenance free. He stated as a homeowner he was trying to maintain his property. He added he did not know he was in an historical section of town when he purchased the property. Mr. Wimer stated the proposed gutter won't rust and will look good.

Ms. Star Wimer, 5 Lyons Court, stated when they bought the house they did not know you had to go to a zoning board if you wanted to change something on the house. She asked what guttering had to do with the historical value of the house. She added that the ARB had allowed vinyl siding in the area, a garage in the area and french doors were allowed in the area. She stated she felt these were more significant changes

to the historical value of the area than her gutters. She stated they want to have maintenance free gutters and they would not rust. Mr. Wimer had pictures of the guttering. Mr. Garnett asked if the pictures were reviewed by the ARB. Mr. Wimer stated the ARB did not want to see the pictures. Mr. Muller stated the Board viewed a power point picture of the existing gutters.

Mr. Garnett stated their argument was that the proposed guttering would last longer. He asked if the ARB made a decision to uphold City law how does the Appeals Board determine the ARB was wrong. He stated Section 17 stated hanging gutters must be half round. Mr. Garnett added their was testimony from a neighbor that he was in favor of the request. Mr. Garnett added there was conflicting testimony on how easy the gutters were to obtain. Mr. Jackson asked if the company they wanted to use had half round gutters. Ms. Wimer stated no. Mr. Jackson stated the design guidelines indicated if the gutters have to be replaced they don't have to put them in the front, leaving the front façade intact. He asked if they explored that. Ms. Wimer stated no and they only had the round gutters on the front and back. Ms. Wimer added she would not have bought a house in South Frankfort had she known you had to go through all of this. Mr. Muller stated these were not box gutters so that section was not applicable.

Mr. Gary Muller, City Planning Director, was present and requested the staff report, applicant's letter and minutes of 11/21/06 be entered into the record.

Mr. Jackson asked Mr. Wimer what type of guttering was on the adjacent houses. Mr. Wimer stated #4 and #3 have square guttering and the house across the street has round guttering. Mr. Garnett stated appendix B of the staff report showed a mix of modern and half round gutters. He asked what made the City Commission want half round. Mr. Muller stated he was not sure. He stated that was maybe the most common in 1983 when the Zoning Code was adopted. Mr. Garnett stated they maybe had twenty (20) year old verbage. Mr. Garnett stated the staff report quoted the code as saying to assure the overall character of the "area" and the predominant details of the "area". Mr. Garnett stated the code talks about "area" and the staff report talks about "structure". Mr. Garnett asked how the ARB determined half round needed to be used if less than half of the properties had half round. Mr. Muller stated staff was not able to identify if the modern gutters received ARB approval. Mr. Booe stated maybe they were put up before the code. Mr. Muller stated the ARB has looked at the area, the block, the street and the structure. He stated it depends on what request is before the ARB. Mr. Garnett stated he had problems with the decision because the modern gutters were no uncharacteristic of the area. Mr. Booe asked if the property was on the National Register of Historic Places. Mr. Muller stated no. Mr. Booe asked if the Heritage Council or Department of the Interior had identified the house as a landmark. Mr. Muller stated these questions were not asked at the last meeting. Mr. Moore stated these questions were outside the record. Mr. Jackson stated 1, 2 & 4 Lyons Court have modern guttering; why is it inappropriate for #5. Mr. Muller stated that was the ARB's rendering. Mr. Booe stated he could not in the minutes what the ARB's decision was based on. Mr.

Muller stated it was based on testimony and the staff report. Mr. Booe asked Mr. Wimer if the roof was still leaking. Mr. Wimer stated the roof has been taken care of. Mr. Garnett stated in using “structure” and not “area” he felt the ARB made an error and did not have substantial evidence. Mr. Jackson stated when you define the area, those closest to 5 Lyons Court are in keeping with what is the character of the area and he felt the Wimer’s should be allowed to put up their proposal.

A motion was made by Mr. Jackson to close the public meeting and table the item for preparation of a summary. The motion was seconded by Ms. Cross and carried unanimously.

A motion was made by Ms. Cross to adjourn. The motion was seconded by Mr. Jackson and carried unanimously.

_____ Acting Chair

_____ Recording Secretary